

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

## PCT

### WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

#### FOR FURTHER ACTION

See paragraph 2 below

International application No.  
PCT/EP2004/008689

International filing date (day/month/year)  
03.08.2004

Priority date (day/month/year)  
04.08.2003

International Patent Classification (IPC) or both national classification and IPC  
C08L23/04

Applicant  
BOREALIS TECHNOLOGY OY

#### 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

#### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

#### 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office - P.B. 5818 Patentlaan 2  
NL-2280 HV Rijswijk - Pays Bas  
Tel. +31 70 340 - 2040 Tx: 31 651 epo nl  
Fax: +31 70 340 - 3016

Authorized Officer

Clemente Garcia, R

Telephone No. +31 70 340-2242



WRITTEN OPINION OF THE  
 INTERNATIONAL SEARCHING AUTHORITY

International application No.  
 PCT/EP2004/008689

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ in written format
    - ☐ in computer readable form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in computer readable form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/EP2004/008689

---

**Box No. II Priority**

---

1. ☒ The following document has not been furnished:
- ☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
  - ☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).
- Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

---

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

---

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-12
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations

**see separate sheet**

---

**Box No. VI Certain documents cited**

---

1. Certain published documents (Rules 43bis.1 and 70.10)  
and / or
2. Non-written disclosures (Rules 43bis.1 and 70.9)  
**see form 210**

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

---

International application No.  
PCT/EP2004/008689

---

**Box No. VII Certain defects in the international application**

---

The following defects in the form or contents of the international application have been noted:

**see separate sheet**

---

**Box No. VIII Certain observations on the international application**

---

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**Item IV**

WO-A-2004/022646 discloses films of high clarity made of a blend of a single-site polymerised polyethylene of density 0.910 to 0.940 g/cm<sup>3</sup> and 0.5 to 20% of a HDPE of density greater of 0.940 g/cm<sup>3</sup> (see [0102] and claims 1 and 12, 13, 18, 19).

**Item V**

**Art. 33.2; Novelty**

1. The claims are not novel. **WO-A-92/07905 (D1)** discloses the use of small amounts of HDPE homopolymer of density at least 950 kg/m<sup>3</sup> as nucleating agent for semicrystalline ethylene/alpha-olefin copolymers of density of less than 940 kg/m<sup>3</sup>. The films obtained with this composition have haze of less than 40% and a gloss of greater than 35 (see claims 1-11; table VII; page 8, line 19 to page 9, line 30). The claims 1-12 are not novel. Dependent claim 7 is a product by process claim. The process features that define the product cannot as such render the claim novel. Only technical features related to the product can limit the claim.

2. **US-B-6346576 (D2)** discloses blends of high density polyethylene homopolymer of density 0.935-0.975 g/cm<sup>3</sup> with ethylene/alpha-olefin prepared with a single site catalyst of density of 0.900 to 0.935 g/cm<sup>3</sup>. The blends are used to make films. Claims 10 and 11 are not novel over D2 (see claim 3).

**Art. 33.3; Inventive step**

The problem of improving crystallisation of polyethylene in order to increase clarity and gloss by adding HDPE into the blend as nucleating agent has already been solved in D1. Therefore, the claims do not involve an inventive step.

**Item VII**

Documents D1 and D2 should be acknowledged in the description and briefly discussed (Rule 5.1 a (II)).

**Item VIII**

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

International application No.

**PCT/EP2004/008689**

Claim 7 is a product by process claim. This claim can only be novel and inventive if the technical features that characterise the product render the product as such novel and inventive.